

ARTICLE 81-01

GENERAL ADMINISTRATION

Chapter	
81-01-01	Organization of Department
81-01-02	General Considerations

CHAPTER 81-01-01 ORGANIZATION OF DEPARTMENT

Section	
81-01-01-01	Definitions
81-01-01-02	Organization and Functions of the North Dakota Tax Department

81-01-01-01. Definitions. For the purposes of title 81, the terms "North Dakota tax department" and "tax department" shall mean the office of the tax commissioner or the tax commissioner of North Dakota as provided in North Dakota Century Code chapter 57-01 and section 12 of article V of the Constitution of North Dakota.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 57-01; NDCon V §12

81-01-01-02. Organization and functions of the North Dakota tax department.

1. **History.** During the period from 1890 to 1912 the functions currently performed by the tax commissioner were performed by the state auditor. From January 1912 to August 1, 1919, a nonpartisan tax commission composed of three commissioners appointed by the governor, by and with the advice and consent of the senate, administered the tax laws on the state level. Beginning August 1, 1919, these duties were assumed by a governor-appointed tax commissioner who served a six-year term. The appointment was subject to approval by the senate. The present office of tax commissioner was created by an amendment of section 12 of article V of the Constitution of North Dakota which was approved by the voters at a statewide election held on June 25, 1940. This amendment provides that the tax commissioner must be at least twenty-five years old and must have the qualifications of a state elector. Under this amendment the tax commissioner is elected for a four-year term. The first tax commissioner was elected at the fall election of 1940 and took office in January 1941.
2. **Divisions.** The tax department consists of the following six divisions:
 - a. **Commissioner's division.** The commissioner's division bears ultimate responsibility for the general administration of the tax

department. This division also coordinates the department's data processing needs and serves as the department's primary research center. Included under the direct control of the commissioner's division is management, planning, and personnel which administers the department's management by objectives program, as well as the personnel function. The tax commissioner is assisted by the deputy commissioner, research and data processing sections, internal audit, an administrative officer, a secretary, and a receptionist.

- b. Controller's division. The controller's division of the tax department functions in three areas: accounting, staff services, and accounts receivable. The accounting section maintains records of tax revenue and department expenditures, prepares the tax department executive budget, and maintains an internal budget. The staff services section is responsible for the initial processing of all tax returns and the operation of the mailroom, stenographic pool, and central records. The accounts receivable section is responsible for collecting delinquent taxes for all divisions of the tax department.
- c. Legal division. The legal division of the tax department is comprised of attorneys who research and prepare opinions answering tax-related questions posed by the commissioner, legislators, other officials, and citizens; who draft proposals for changes in tax laws; who conduct all litigation for the tax department and the state board of equalization; and who help draft rules and regulations for the administration of the various state taxes. Generally speaking, the legal division works in an advisory capacity to the commissioner so that policy, procedures, administration, and formulation of new ideas are in keeping with the laws that govern state taxes.
- d. Sales and special taxes division. The sales and special taxes division consists of a sales and use tax section, an estate tax section, and a motor fuel and miscellaneous tax section.

The sales and use tax section is responsible for the administration of the following chapters of the North Dakota Century Code: the retail sales tax chapter 57-39.2, use tax chapter 57-40.2, motor vehicle excise tax chapter 57-40.3, motor vehicle excise tax refund chapter 57-40.4, and aircraft excise tax chapter 57-40.5. This section issues sales and use tax permits, provides taxpayer assistance, conducts programs to ensure compliance with the law, and processes and audits sales and use tax returns. There is also a sales tax field audit staff which audits permit holders' records.

The estate tax section is responsible for the administration of North Dakota Century Code chapter 57-37.1. This section receives and

reviews all state estate tax returns and assesses and collects estate taxes due.

The motor fuel and miscellaneous taxes section is responsible for the administration of the following chapters and sections of the North Dakota Century Code: motor vehicle fuels and importer for use taxes chapter 57-43.1, special fuels and importer for use taxes chapter 57-43.2, aviation fuel tax chapter 57-43.3, tobacco products tax law chapter 57-36, and section 47-21-08 which deals with the tax levied on selling and licensing performing rights of music or dramatico-musical compositions. These taxes are collected and audited by the motor fuel and miscellaneous taxes section which also issues the motor fuel tax refund to those consumers using motor fuel for agricultural or industrial purposes.

- e. Income and oil taxes division. This division is divided into three sections: corporate income taxes, individual income taxes, and oil and gas taxes.

The corporate income tax section is responsible for the administration of chapters 57-38 and 57-38.1 pertaining to corporate income taxes and the Uniform Division of Income Tax Act, and the administration of chapter 57-59 pertaining to multistate tax compact. This section is also responsible for the administration of chapter 57-35.3 pertaining to the taxation of financial institutions.

The individual income tax section is responsible for the administration of chapters 57-38, 57-38.1, 57-38.2, and 57-38.3 pertaining to individual income taxes, the Uniform Division of Income Tax Act, income averaging, and setoff of income tax refund. This section is also responsible for administration of chapter 57-59 pertaining to multistate tax compact.

The oil and gas division is responsible for the administration of chapters 57-51 and 57-51.1 pertaining to oil and gas gross production tax and oil extraction tax.

All sections review tax returns, perform audits, and provide taxpayer assistance.

- f. Property and utility tax division. The property tax is a source of revenue for the financing of county, city, township, school district, and other local governments. While local government has the responsibility of assessing and taxing all classes of real property, this division provides assistance and helps to establish uniformity of procedures. It also develops rules and regulations for the taxation of mobile homes under North Dakota Century Code chapter 57-55, which tax is administered by the county

directors of tax equalization and collected by the county treasurers of the various counties. This division also provides administrative services to the state board of equalization relating to new industry tax exemption applications made pursuant to North Dakota Century Code chapter 40-57.1, and to assessment and sales ratio statistical analyses.

The utility tax section makes annual tentative valuations of railroad and utility properties for use by the tax commissioner to make tentative assessments to submit to the state board of equalization which makes the final assessments. The utility tax section also administers the following North Dakota Century Code chapters: 57-33, for taxation of rural electric cooperatives; 57-33.1, for taxation of cooperative-owned transmission lines of two hundred thirty kilovolts or larger; 57-34, for taxation of mutual and cooperative telephone companies; 57-60, for privilege tax on coal conversion facilities; and 57-61, for coal severance tax.

3. **Inquiries - Submissions - Requests.** The public may obtain information or make submissions of reports and other matters or make requests regarding any of the tax matters described in subdivisions d, e, and f of subsection 2 by directing such inquiries, submissions, or requests to the North Dakota tax commissioner or to the division of the North Dakota tax department responsible for the administration of the tax involved. The mailing address for the North Dakota tax commissioner and for the North Dakota tax department is:

State Capitol
Bismarck, North Dakota 58505

4. **Tax department functions subject to North Dakota Century Code chapter 28-32.** For purposes of its administration of the various tax laws, the tax department is an "administrative agency" that is subject to North Dakota Century Code chapter 28-32. See the 1981 amendment of subsection 1 of North Dakota Century Code section 28-32-01.

History: Amended effective December 31, 1981; June 1, 1984; January 1, 1998.

General Authority: NDCC 28-32-02.1

Law Implemented: NDCC 28-32-02.1